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**VIA SAME-DAY HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Comments of Knight-Ridder, Inc. in MM Docket No. 96-197

Dear Mr. Caton:

On behalf of Knight-Ridder, Inc. ("Knight-Ridder"), and in accord with 47 C.F.R. § 1.419, enclosed for filing with the Commission are an original and eleven copies, which include copies for each Commissioner, of the Comments of Knight-Ridder in response to the Commission's Notice of Inquiry in the Matter of Newspaper/Radio Cross-Ownership Waiver Policy, in the above-referenced docket.

An additional copy of the Comments is enclosed to be date-stamped. Please return the date-stamped copy to the courier for delivery to the undersigned.

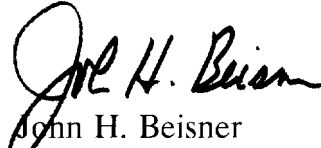
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Any questions regarding this filing should be referred to the undersigned.  
We very much appreciate your assistance in processing this filing.

Respectfully submitted,



John H. Beisner  
John E. Welch

Counsel to Knight-Ridder, Inc.

Enclosures

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

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FEB 7 1997

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20541

In the Matter of	)	
	)	
Newspaper/Radio Cross-Ownership	)	MM Docket No. 96-197
Waiver Policy	)	
_____	)	

**COMMENTS OF KNIGHT-RIDDER, INC.**

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Counsel for Knight-Ridder, Inc.

Dated: February 7, 1997  
268330

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

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FEB 7 1997  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

In the Matter of	)	
	)	MM Docket No. 96-197
Newspaper/Radio Cross-Ownership	)	
Waiver Policy	)	
_____	)	

**COMMENTS OF KNIGHT-RIDDER, INC.**

Knight-Ridder, Inc. ("Knight-Ridder"), by its counsel, submits these comments in response to the Commission's Notice of Inquiry in the above-captioned proceeding.

The Commission has solicited comments regarding possible revisions to its waiver policies with respect to the radio-newspaper portion of the broadcast-newspaper cross-ownership rule. Knight-Ridder wholeheartedly supports the Commission's review of the cross-ownership rule. However, for the reasons discussed below, Knight-Ridder hereby requests that the Commission expand its review to include television-newspaper combinations as well.

First, the Commission's Notice of Inquiry divides consideration of the broadcast-newspaper cross-ownership rule for no apparent reason. The broadcast-newspaper cross-ownership rule is one of general applicability, applying equally to "AM, FM or TV broadcast stations."<sup>1</sup> The Commission deliberately adopted one rule and one

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<sup>1</sup> 47 CFR § 73.3555(d) (emphasis added).

set of waiver policies that apply equally to radio and television stations. As such, any review of the rule or of the Commission's waiver policies should encompass all broadcast stations covered by the rule, not just some of them. Surprisingly, the Notice of Inquiry does not provide any rationale for the Commission's choice to cut the rule in half and review its waiver policies with respect to radio-newspaper combinations only.

Second, the rationales cited by the Commission for reviewing its policies with regard to radio-newspaper combinations apply even more strongly to television. In its Notice of Inquiry soliciting comments on what changes, if any, should be made to the waiver policy for newspaper-radio combinations, the Commission recognizes the dramatic increase in the number of radio stations since the rule was promulgated in 1975. The Commission also recognizes that given these and other market changes, "there may be markets in which allowing waivers of the cross-ownership restriction would be healthy for the maintenance of diversity."<sup>2</sup> However, the Commission fails to recognize that similar market forces have reconfigured the television market as well. In fact, as demonstrated below (*infra*, pp. 5-9), any rationales for modifying the rules with respect to radio-newspaper combinations apply in spades to television-newspaper combinations.

Third, the Telecommunications Act of 1996 requires the Commission to reevaluate its ownership rules every two years. As such, the Commission would conserve administrative resources by reviewing the entire rule now, rather than reviewing only

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<sup>2</sup> See Newspaper/Radio Cross-Ownership Waiver Policy, FCC Release No. 96-381 (MM Docket No. 96-197) (released Oct. 1, 1996) ("Notice of Inquiry") at ¶ 9.

radio-newspaper combinations in this proceeding, and then reviewing the entire rule by early 1998.

For these reasons, as explained in more detail below, Knight-Ridder respectfully requests that the Commission expand its review of the cross-ownership rule to include television-newspaper combinations. Such a review could take place either on a parallel track to this proceeding, or as part of this proceeding, because the policy arguments supporting a change in the television-newspaper part of the rule are much the same as those cited by the Commission in its Notice of Inquiry with regard to radio-newspaper combinations.<sup>3</sup>

### **Argument**

The broadcast-newspaper cross-ownership rule, promulgated in 1975, was founded upon the Commission's concerns that "granting a broadcast license to an entity in the same community as that in which the entity also publishes a newspaper would harm local diversity."<sup>4</sup> In promulgating the rule, the Commission explicitly chose to lump radio and television together into one cross-ownership rule.<sup>5</sup> At the time it established the rule, the Commission recognized that there could be situations in which

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<sup>3</sup> Along with these comments, Knight-Ridder is concurrently filing comments in the Commission's proceeding regarding attribution of broadcast interests (MM Docket Nos. 94-150, 92-51, 87-154) regarding the related issues of when newspaper investments in broadcast entities should trigger the prohibitions of the cross-ownership rule.

<sup>4</sup> Id. at ¶ 3.

<sup>5</sup> See Amendment of Sections 73.34, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations ("Second Report and Order"), 50 FCC2d 1046, 1076 (1975).

its application would be "unduly harsh."<sup>6</sup> Accordingly, the Commission established that a waiver would be appropriate under any of the following four conditions: (1) if the applicant were unable to sell the station; (2) if the applicant were able to sell only at a depressed price; (3) if separate ownership of a newspaper and broadcast entity in a specific locality would be impossible; or (4) if the applicant could demonstrate that the purposes of the rule would be disserved by its application in a particular situation.<sup>7</sup>

The Commission has granted permanent waivers pursuant to these criteria only two times in the 21 years since the rule was promulgated. Notably, both permanent waivers involved television stations -- not radio stations.<sup>8</sup> Knight-Ridder supports the Commission's view that changes in its cross-ownership policy should be effected through a rulemaking process such as this, and not through individual waiver requests.

Accordingly, Knight-Ridder urges the Commission to reexamine the entire rule in this proceeding.

**I. Because The Broadcast-Newspaper Cross-Ownership Rule Applies Both To Radio And Television, Any Reevaluation Of The Rule Should Encompass Both Radio-Newspaper And Television-Newspaper Combinations.**

In promulgating the broadcast-newspaper cross-ownership rule and delineating its waiver criteria, the Commission determined that the rule should apply equally to radio and television broadcast entities. Specifically, the Commission recognized that its stated goal of "insuring . . . a free flow of information from as many

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<sup>6</sup> Id. at 1077.

<sup>7</sup> Id. at 1085.

<sup>8</sup> See Notice of Inquiry at ¶ 4.

divergent sources as possible,"<sup>9</sup> would best be advanced by including both radio-newspaper cross-ownership and television-newspaper cross-ownership in the same ban.

Without explaining why, the Commission's recent Notice of Inquiry cuts the rule down the middle and seeks comment only with respect to radio-newspaper combinations. Such an artificial dichotomy ignores the background and thrust of the rule. To the extent that the Commission determines that strict application of the cross-ownership rule no longer jibes with its two goals of diversity and competition, such an analysis should serve to loosen the rule with respect to television-newspaper combinations as well. In fact, as discussed below, many of the rationales for reconsidering the cross-ownership rule apply even more forcefully to television-newspaper combinations than to radio-newspaper ventures.

## **II. The Same Rationales For Reconsidering The Rule With Regard To Radio-Newspaper Combinations Apply To Television-Newspaper Combinations As Well.**

As the Commission states in its Notice of Inquiry, the broadcast-newspaper cross-ownership rule "rests on the twin goals of promoting diversity of viewpoint and economic competition."<sup>10</sup> In recent years, however, with the dramatic increase in the number of broadcast stations, and the proliferation of numerous multichannel video programming distribution services (including cable television, direct broadcast satellite and multichannel multipoint distribution service ("MMDS")), technological advances have outstripped ownership restrictions as the most effective means of increasing programming diversity and economic competition.

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<sup>9</sup> Second Report and Order at 1079.

<sup>10</sup> Notice of Inquiry at ¶ 3. See also Second Report and Order at 1079.



In support of its Notice of Inquiry, the Commission notes that the number of licensed radio stations in the country has increased by 46 percent since the cross-ownership rule was adopted in 1975.<sup>11</sup> However, the Commission fails to note that the real explosion in diversity has actually occurred on the television side, where viewers can now choose from many more channels, as well as a slew of video programming services that were unavailable in 1975.

Since the cross-ownership rule was adopted in 1975, the number of on-air television stations has increased 62 percent, from 952 to 1,544.<sup>12</sup> In addition, the number of television stations available to most households has increased as well -- in large part due to the continuing expansion of cable. Cable television now passes over 96 percent of all television households in the United States,<sup>13</sup> and cable penetration is at 66 percent.<sup>14</sup> The growth of cable television has augmented viewer diversity in several ways. First, it has increased the power and importance of UHF stations.<sup>15</sup> Second, it has increased exponentially the number of channels available to most television households. There are now at least 94 basic programming networks on cable, in addition

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<sup>11</sup> Notice of Inquiry at ¶ 9.

<sup>12</sup> See Broadcasting & Cable Yearbook (1996) at C-244.

<sup>13</sup> See In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming ("Second Annual Report"), 11 FCC Rcd 2060, 2063-64 (1995).

<sup>14</sup> See Review of the Prime Time Access Rule, Section 73.658(k) of the Commission's Rules ("PTAR Report & Order"), 11 FCC Rcd 546, 584 (1995).

<sup>15</sup> See id.

to 20 premium networks.<sup>16</sup> More than 40 percent of cable subscribers receive service from systems with a channel capacity of more than 54 channels,<sup>17</sup> and 97 percent of all cable subscribers receive service from systems that can provide at least 30 channels.<sup>18</sup> Moreover, satellite television is also exploding, with 6.1 million DBS and C-band subscribers as of October 1996,<sup>19</sup> and telephone companies are beginning to offer video programming through cable, MMDS and open video systems,<sup>20</sup> and will likely become major participants in the video programming distribution market in the near future. The continued growth of cable television, direct broadcast satellite service, MMDS, low power television and other video programming technologies only serves to ensure that programming diversity and viewer choice will continue to grow into the next century -- regardless of what happens to the cross-ownership rule.

In its Notice of Inquiry, the Commission also notes that there may be cases "in which allowing waiver of the cross-ownership restriction would be healthy for the maintenance of diversity," or cases in which "cross-ownership, while not necessary to the viability of one or both outlets, could lead to benefits such as increased dissemination of news and information in the relevant local market."<sup>21</sup> Again, these rationales apply just

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<sup>16</sup> See Second Annual Report at 2069.

<sup>17</sup> See TV & Cable Factbook (1995) at F-3.

<sup>18</sup> See Second Annual Report at 2064.

<sup>19</sup> See "Trade Group: Satellite TV Picking Up Steam," Media Daily, November 18, 1996, at 1.

<sup>20</sup> See "Ops Try to Minimize Competitive Threats; Cable Television Operators," Multichannel News, September 30, 1996, at 56.

<sup>21</sup> Notice of Inquiry at ¶ 9.

as forcefully (or more so) to television-newspaper combinations. In the words of Chairman Hundt, "why should [the Commission] prohibit a newspaper from, say, exploring the potential of turning a little-watched UHF station (or digital television channel) into a local all-news center?"<sup>22</sup> Certainly, a jointly owned newspaper and television station combination could produce first-rate, original and comprehensive news and public service programs. And there is no reason to suppose that such benefits would be any greater in a radio-newspaper combination. To the contrary, a television-newspaper combination could certainly capitalize on unique news-gathering efficiencies both in terms of spot news and investigative reporting and produce documentaries and public service programs with an even greater community impact than a radio-newspaper combination.

Given the exponential growth in television diversity over the last two decades, and the obvious public service benefits that could accrue from a television-newspaper combination (particularly in the news and public service arenas), it is surprising that the Commission decided to reconsider only radio-newspaper combinations in this proceeding. According to news reports, that decision may have been prompted by concerns that revising the television part of the rule would be more "controversial."<sup>23</sup> However, regardless of any such concerns, Knight-Ridder urges the Commission to open

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<sup>22</sup> Capital Cities/ABC, Inc., 11 FCC Rcd 5841, 5906-07 (Separate Statement of Chairman Hundt) (1996).

<sup>23</sup> See "Radio/Print Combos? FCC Will Decide," Electronic Media, Aug. 12, 1996, at 1 (according to FCC staff, the FCC's radio-newspaper cross-ownership "proceeding will not include TV because loosening the rules for television could be more controversial").

such a proceeding immediately and to reconsider its waiver policy with respect to both radio-newspaper combinations and television-newspaper combinations.

**III. The Telecommunications Act Of 1996 Requires That The Commission Reevaluate The Cross-Ownership Rule In Its Entirety.**

The Telecommunications Act of 1996 directs the Commission to review all of its ownership rules every two years and to "repeal or modify any regulation it determines to be no longer in the public interest."<sup>24</sup> As such, this Commission is under a statutory duty to reconsider the entire broadcast-newspaper cross-ownership rule, not just the part that relates to radio-newspaper combinations. Given the Commission's duty under the Act to reexamine the cross-ownership rule, it makes sense for the Commission to do so now, rather than complete this proceeding and then start again next year with a new proceeding to review the entire rule by early 1998.<sup>25</sup> Accordingly, Knight-Ridder urges the Commission, pursuant to its statutory duty under the 1996 Act, to reconsider the cross-ownership rule in its entirety, and not just as it relates to radio-newspaper combinations.

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<sup>24</sup> Telecommunications Act of 1996, Pub. L. No. 104-66, § 202(h), 110 Stat. 56, 111-12 (1996). See also Capital Cities/ABC, Inc., 11 FCC Rcd at 5888 n. 55 ("this direction [in the Telecommunications Act] would favor an even broader review of our broadcast newspaper ownership limitations").

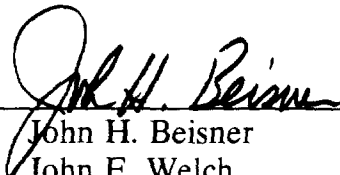
<sup>25</sup> This approach would not preclude the Commission from promptly relaxing the rule with respect to radio-newspaper combinations prior to completing its review of the entire broadcast-newspaper cross-ownership rule.

## Conclusion

When the Commission adopted the broadcast-newspaper cross-ownership rule, it adopted one rule and one set of waiver policies to cover both television-newspaper combinations and radio-newspaper combinations. The increase in radio and television outlets and other market changes over the last two decades suggests that the rule, at least in its present form, has outlived its usefulness. Given these changes, it is appropriate that the Commission has solicited comments regarding possible revisions to its current, stringent waiver policy. However, because the market changes at issue have occurred in both the television and radio markets, any reconsideration of the rule should be expanded to include the entire rule and not just be limited to radio-newspaper combinations. Accordingly, Knight-Ridder respectfully requests that the Commission immediately broaden this rule-making proceeding to include the other half of the cross-ownership rule, which prohibits combinations between television stations and newspapers.

Respectfully submitted,

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Dated: February 7, 1997